



## MINUTES

# ORDINARY MEETING OF COUNCIL

at 6.00 pm

**Monday 23 February 2015**

### Present

Lord Mayor – Councillor Bradbery OAM (in the Chair), Councillors Connor, Brown, Takacs, Martin, Blicavs, Dorahy, Crasnich, Curran and Petty

### In Attendance

General Manager – D Farmer, Director Corporate and Community Services – Creative, Engaged and Innovative City – G Doyle, Director Infrastructure and Works – Connectivity, Assets and Liveable City – M Hyde, Director Planning and Environment – Future, City and Neighbourhoods – A Carfield, Manager Governance and Information – L Kofod, Manager Finance – B Jenkins, Manager Property and Recreation – P Coyte and Manager Environmental Strategy and Planning – R Campbell

### Apologies

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**12** **COUNCIL'S RESOLUTION** – RESOLVED UNANIMOUSLY on the motion of Councillor Crasnich seconded Councillor Connor that the apologies tendered on behalf of Councillors Colacino, Kershaw and Merrin be accepted.

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## **DISCLOSURE OF INTERESTS**

Councillor Martin declared a non-significant, non-pecuniary conflict of interest in Items 2 and 4 insofar as they relate to matters which will, at some point in time, involve the Department of Planning and Environment, where she is employed.

Councillor Martin also declared a non-significant, non-pecuniary conflict of interest in Item 5 as she has worked with Port Kembla Copper as a local resident over a number of years and has developed a reasonable relationship with the organisation, as a local community member and volunteer.

Councillor Petty declared a non-significant, non-pecuniary interest in Item 2 as he is a resident of Helensburgh. Councillor Petty advised that he would depart the meeting during consideration and voting on the matter.

Councillor Petty declared a significant, pecuniary interest in Item 11 as he is employed by a company that has business dealings with a tenderer and he would depart the meeting during consideration and voting on the matter.

## **ACKNOWLEDGMENT OF THE PASSING OF MR VIC THOMAS**

Councillor Martin advised that Mr Vic Thomas, a long-time active member of the Berkeley community, passed away suddenly on 6 February 2015. Mr Thomas was 82 and had lived in Berkeley for 59 years. He was a Founding Member of the Berkeley Sports and Social Club (now known as Berkeley Sports) and was also a Founding Member of the Berkeley Neighbourhood Centre. Mr Thomas also worked with the local community to raise funds for the Berkeley Swimming Pool.

Councillor Martin asked that Council acknowledge the passing of Mr Vic Thomas.

## **PRESENTATION – 5 STAR GREEN STAR RATING – WOLLONGONG CITY COUNCIL ADMINISTRATION BUILDING**

The Lord Mayor tabled an Award from the Green Building Council of Australia. Council's Administration Building was given a 5 Star Green Star Rating representing Australian Excellence in building operations.

The Lord Mayor congratulated staff who had been instrumental in Council achieving this wonderful outcome.

## **CONFIRMATION OF MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 27 JANUARY 2015**

- 13 COUNCIL'S RESOLUTION** – RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Dorahy that the Minutes of the Ordinary Meeting of Council held on Tuesday, 27 January 2015 (a copy having been circulated to Councillors) be taken as read and confirmed.

### **PUBLIC ACCESS FORUM – SANDON POINT PLAN OF MANAGEMENT**

On behalf of the Sandon Point and McCauleys Beach Residents Group, Ms M Lewis, felt that Council officers who had prepared the report had disregarded submission provided by the majority of residents and groups, despite those residents being the most significantly impacted by the plan. It was felt that this Plan was just an extension of the current arrangements and was a lost opportunity.

Ms Lewis asked Councillors to consider the following before voting on the Plan –

- Did they genuinely believe that the proposals set out in this Plan are the best possible outcome for this area?
- Did they believe that the plans for the Aboriginal Place as outlined in this Plan improve education and understanding about Aboriginal Cultural and History in the Illawarra?
- As representatives of this City, would Councillors take visitors from outside the region to this area to proudly show them what is being achieved on such an important site?
- Were Councillors happy to sign off on a Plan that still has vehicles sharing a pathway with bikes and pedestrians, and accept the consequences of such?

In conclusion, Ms Lewis said that if Councillors answered 'no' to any of the above, then they should reject this Plan of Management.

On behalf of the Northern Illawarra Residents' Action Group (NIRAG), Mr Alex Peterson said that the plantings at Tramway Creek predate any development adjoining the Plan of Management. They have enhanced the habitat and natural biodiversity and are appropriate for the area. NIRAG supports the Plan of Management and congratulates Council on its initiative in facilitating the resolution of a Keeping Place.

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Also on behalf of NIRAG, Mr R Dearden said that for too long Aboriginal culture and rights had been ignored and the establishment of a Keeping Place was a Land and Environment Court condition of consent in 2001. Sandon Point is a diverse environment, rich in Aboriginal, pioneering, coal mining, surfing and natural history. The wetlands, boatsheds and rock platforms combine with this to form a unique ecosystem, which is largely unrecognised or appreciated by visitors and many residents. Over the years NIRAG has urged Council to recognise and celebrate the history of the site with signage and information for visitors. Simple low cost improvements to signage, tracks and boardwalks could easily connect the shore to the escarpment. The acquisition or lease incorporating the Ray Hannah land would also be an obvious next step.

Mr Dearden said that new and older residents should be encouraged to embrace the historical and cultural mix that is Sandon Point. It has a cultural richness and environmental diversity that few locations close to large regional centres offer. The Plan acknowledges and protects many of the features and values that are under threat, and for this reason it is fully supported.

- 14** **COUNCIL'S RESOLUTION** – RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Crasnich that all speakers be thanked for their presentation and invited to table their notes.

#### **CALL OF THE AGENDA**

- 15** **COUNCIL'S RESOLUTION** – RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Blicavs that the staff recommendations for Items 3 and 4, and 8 to 10, 12 and 13 inclusive, be adopted as a block.

## **ITEM A – ITEM LAID ON TABLE – COUNCIL MEETING 27 JANUARY 2015 – LAKE ILLAWARRA ESTUARY MANAGEMENT COMMITTEE UPDATE**

A PROCEDURAL MOTION was MOVED by Councillor Brown seconded Councillor Crasnich that this matter be taken off the table and the speakers list be recommenced.

On 27 January 2015 the following motion was MOVED by Councillor Crasnich seconded Councillor Colacino that Council –

- 1 Endorse the updated Terms of Reference for the Lake Illawarra Estuary Management Committee.
- 2 Nominate the three Councillor representatives to the Lake Illawarra Estuary Management Committee, one of whom shall be a member of the Wollongong Estuary and Coastal Zone Management Committee.
- 3 Note that a further report will be provided to Council addressing Council's resolution for a report on a Lake Illawarra Manager.

A PROCEDURAL MOTION was MOVED by Councillor Martin seconded Councillor Crasnich that Councillor Connor be granted an additional three (3) minutes to address the meeting in relation to the Amendment for Item A.

### **16 COUNCIL'S RESOLUTION** – An AMENDMENT was MOVED by Councillor Bradbery seconded Councillor Connor that –

- 1 Council endorse the updated Terms of Reference for the Lake Illawarra Estuary Management Committee, subject to –
  - a The clear understanding that the Lake Illawarra Estuary Management Committee has an advisory role only;
  - b Expenditure recommended by the Lake Illawarra Estuary Management Committee will require the approval of Wollongong and Shellharbour City Councils; and,
  - c Wollongong and Shellharbour City Councils being responsible for the Foreshore infrastructure in their respective Local Government Areas (which reflects proportional autonomy over expenditure).
- 2 Wollongong City Council work with Shellharbour City Council to review the Memorandum of Understanding (resolved by Wollongong City Council on 13 October 2014) in the next term of Council, considering the following inclusions –

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- a The Lake Illawarra Estuary Management Committee be governed through a Committee pursuant to Section 355(d) of the Local Government Act 1993;
  - b Proportional representation from the two Councils; and
  - c Determination of further expenditure.
- 3 Council nominate the three Councillor representatives to the Lake Illawarra Estuary Management Committee, one of whom shall be a member of the Wollongong Estuary and Coastal Zone Management Committee.
  - 4 A further report be provided to Council addressing Council's resolution for a report on a Lake Illawarra Manager.

Councillor Bradbery's AMENDMENT on being PUT to the VOTE was CARRIED.

- In favour Councillors Connor, Brown, Martin, Takacs, Blicavs, Dorahy, Crasnich and Bradbery
- Against Councillors Curran and Petty

Councillor Bradbery's AMENDMENT then BECAME the MOTION.

The MOTION on being PUT to the VOTE was CARRIED.

- In favour Councillors Connor, Brown, Martin, Takacs, Blicavs, Dorahy, Crasnich and Bradbery
- Against Councillors Curran and Petty

Nominations were received for Councillors Brown and Curran, as members of the Wollongong Estuary and Coastal Zone Management Committee, to be elected to the Committee and, on a show of hands, Councillor Brown was elected to the Lake Illawarra Estuary Management Committee.

Nominations were then received for Councillors Crasnich, Martin and Merrin to be elected to the Lake Illawarra Estuary Management Committee and on a show of hands, the following votes were recorded –

- Councillor Crasnich: Councillors Blicavs, Dorahy, Crasnich, Bradbery
- Councillor Martin: Councillors Connor, Brown, Martin
- Councillor Merrin: Councillors Curran, Petty, Takacs

Councillor Crasnich with four (4) votes was declared elected.

As votes for Councillors Martin and Merrin were tied, following a draw by lot, Councillor Martin was elected.



## **ITEM 1 – PLAN OF MANAGEMENT FOR SANDON POINT AND MCCAULEY'S BEACH – POST EXHIBITION**

A PROCEDURAL MOTION was MOVED by Councillor Crasnich seconded Councillor Martin that Councillor Dorahy be granted an additional five (5) minutes to address the meeting in relation to Item 1.

### **17 COUNCIL'S RESOLUTION** – MOVED by Councillor Takacs seconded Councillor Brown that –

- 1 The amended Sandon Point and McCauley's Beach Plan of Management (Attachment 3 of the report) be adopted in accordance with section 39 of the Local Government Act 1993.
- 2 The support of the Elders from the five Aboriginal community groups to participate in a Joint Management Agreement be noted and Council confirm its willingness to pursue and facilitate this process. A further report on the Joint Management Agreement be presented to Council for endorsement, when the protocols have been developed by the Elders.

An AMENDMENT was MOVED by Councillor Petty seconded Councillor Blicavs that -

- 1 The amended Sandon Point and McCauley's Beach Plan of Management (Attachment 3 of the report) be noted.
- 2 The support of the Elders from the five Aboriginal community groups to participate in a Joint Management Agreement be noted and Council confirm its willingness to pursue and facilitate this process. A further report on the Joint Management Agreement be presented to Council for endorsement, when the protocols have been developed by the Elders.

Councillor Petty's AMENDMENT on being PUT to the VOTE was LOST.

**In favour** Councillors Blicavs, Dorahy, Crasnich and Petty  
**Against** Councillors Connor, Brown, Martin, Takacs, Curran and Bradbery

Councillor Takacs' MOTION on being PUT to the VOTE was CARRIED.

**In favour** Councillors Connor, Brown, Martin, Takacs, Curran and Bradbery  
**Against** Councillors Blicavs, Dorahy, Crasnich and Petty

## **DEPARTURE OF COUNCILLORS**

Due to a prior Disclosure of Interest, Councillor Petty departed the meeting and was not present during debate and voting on Item 2.

During debate and prior to voting on Item 2, Councillors Blicavs and Crasnich departed and returned to the meeting, the times being from 7.42 pm to 7.44 pm, and 7.42 pm to 7.43 pm respectively.

NOTE: Councillor Takacs advised that he was a member of the Joint Regional Planning Panel that made recommendations on the Lady Carrington Estate South precinct. He supported Council's previous resolution and the report records his dissenting view.

## **ITEM 2 – PRE-GATEWAY APPEAL – LADY CARRINGTON ESTATE SOUTH, HELENSBURGH**

A PROCEDURAL MOTION was MOVED by Councillor Crasnich seconded Councillor Dorahy that Councillor Curran be granted an additional five (5) minutes to address the meeting in relation to Item 2.

MOVED by Councillor Curran seconded Councillor Connor that –

- 1 This matter be deferred until urgent legal advice is obtained from a Barrister with expertise in Planning and Administrative Law detailing options available to Council to appeal the Decision of Marcus Ray, Acting Deputy Secretary Planning Services NSW, Department of Planning and Environment dated 18 December 2014.
- 2 Council urgently write to the NSW Ministers for Planning and Environment expressing concerns regarding the above decision, and the letters –
  - a Provide a chronology of this site including Land and Environment Court action regarding clearing of land;
  - b Outline reasons why this land needs to be protected and conserved by an E2 zoning; and
  - c Express disappointment and concern that the NSW Department of Planning and Environment would make such a threat to take our planning powers away for this environmentally-sensitive and constrained site if Council did not allow the current Gateway Proposal to proceed.

At this point, Councillor Blicavs FORESHADOWED a MOTION should Councillor Curran's Motion be defeated.

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Councillor Curran's MOTION on being PUT to the VOTE was LOST.

In favour Councillors Connor, Brown, Takacs and Curran

Against Councillors Martin, Blicavs, Dorahy, Crasnich and Bradbery

Following the defeat of Councillor Curran's MOTION, Councillor Blicavs' FORESHADOWED MOTION then became the MOTION.

**18 COUNCIL'S RESOLUTION** – MOVED by Councillor Blicavs seconded Councillor Dorahy that –

- 1 The decision of the NSW Department of Planning and Environment to support the preparation of a draft Planning Proposal for the Lady Carrington Estate South precinct be noted.
- 2 The NSW Department of Planning and Environment be advised that Council is willing to be the Relevant Planning Authority.
- 3 Council officers be authorised to be involved in the preparation of the additional studies by the proponent, review the submitted reports and work on the Planning Proposal and reports to Council.
- 4 Based on the 2012-13 Fees and Charges (applicable at the time of lodgement of the Planning Proposal request) an invoice of \$11,040 be sent to the proponent for the second stage of the rezoning fee.
- 5 Options for Council to initiate an appeal on the matter be provided by way of an Information Folder report.

*Variation The variation moved by Councillor Brown (the addition of point 5) was accepted by the mover and seconder.*

Councillor Blicavs' MOTION on being PUT to the VOTE was CARRIED UNANIMOUSLY.

### **ITEM 3 – WOLLONGONG DEVELOPMENT CONTROL PLAN 2009 – D18 BRICKYARD POINT – POST EXHIBITION**

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 15).

**COUNCIL'S RESOLUTION** – The Wollongong Development Control Plan 2009 Chapter D18 – Brickyard Point Austinmer be adopted as an amendment to the Wollongong Development Control Plan 2009, and its adoption be notified in the local paper.

## **ITEM 4 – DRAFT SHONE AVENUE AND WEST DAPTO ROAD, HORSLEY NEIGHBOURHOOD PLAN**

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 15).

### **COUNCIL'S RESOLUTION –**

- 1 The draft Neighbourhood Plan prepared for land fronting Shone Avenue and West Dapto Road, Horsley be placed on exhibition for a minimum period of 28 days (Attachment 1 of the report) as an amendment to the Wollongong Development Control Plan 2009 Chapter D16 West Dapto Release Area, subject to the following changes being made and submitted to Council prior to exhibition:
  - a The acoustic building exclusion zone of 25m along the railway line, be incorporated into the design of the Neighbourhood Plan based on the Noise Report recommendations and be noted clearly for the purpose of identification in the Wollongong Development Control Plan 2009. Re-design Lots 371 to 393 in the Neighbourhood Plan to ensure that there is suitable space for a building envelope outside of the 25m exclusion zone.
  - b A local park be included into the design of the Neighbourhood Plan comprising 2ha of land, 1ha being developable land outside of the 1 in 100 year event and 1ha of non-developable land, that is able to accommodate one playing field.
  - c Clearly identify on the Neighbourhood Plan that the lot layout and roads can accommodate a 32m wide Asset Protection Zone to the eastern part of the site near Robins Creek and the 15m wide Asset Protection Zone in the north western corner and the south eastern corner on private land or on public roads.
  - d Detention basins need to be located outside of the 1 in 100 year event.
  - e The electricity easements be re-designed into the Neighbourhood Plan as part of larger lots, and not be transferred to Council.
- 2 Consultation with NSW State Agencies occur as part of the exhibition period.
- 3 A draft Planning Proposal for the following lots in part be prepared for rezoning from E3 Environmental Management to R2 Low Density Residential with a corresponding Floor Space Ratio of 0.5:1 and Minimum Lot Size of 450m<sup>2</sup>:
  - a Lot C DP 397366;
  - b Lot 5 DP 26069;

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- c Lot 19 DP 879647;
  - d Lot 102 DP 1137454;
  - e Lot 1012 DP 862178;
  - f Lot 2 DP 26069;
  - g Lot 1 DP 607456; and
  - h Lot 1 DP 26069.
- 4 Further work be required as part of the Gateway determination to be undertaken to demonstrate how the cut and fill of flood affected land could be managed within the Neighbourhood Plan area and a flora and fauna report be prepared for the areas proposed to be rezoned and exhibited as part of the draft Planning Proposal.
  - 5 The draft Planning Proposal be referred to the NSW Department of Planning and Environment for a Gateway determination and if endorsed exhibited for a minimum period of 28 days.
  - 6 Council requests authority for the General Manager to exercise plan making delegations in accordance with Council's resolution of 26 November 2012 for the Planning Proposal.

## **ITEM 5 – PROPOSED TRANSFER OF PORT KEMBLA COPPER PROPERTY TITLES AND ENVIRONMENT PROTECTION LICENCES**

**19 COUNCIL'S RESOLUTION** – RESOLVED UNANIMOUSLY on the motion of Councillor Curran seconded Councillor Blicavs that –

- 1 Council note the proposal from Port Kembla Copper Pty Ltd to transfer the property titles and environment protection licences (EPLs) for the former copper smelter site at Port Kembla and the former slag emplacement area at Primbee to a new entity, PKC Properties Pty Ltd.
- 2 Council endorse the letter attached to the report to the Environment Protection Authority detailing our support for the public positive covenant and supporting management plan for the Port Kembla site and the additional information required to be provided by Port Kembla Copper for the Environment Protection Authority to determine this proposal, subject to the following amendment to the last paragraph of the letter "... the future environmental issues at the two sites and any additional offsite migration of contamination in groundwater into Lake Illawarra".

## DEPARTURE OF COUNCILLOR

During debate and prior to voting on Items 6 and 7, Councillor Connor departed and returned to the meeting, the time being from 8.32 pm to 8.34 pm.

A PROCEDURAL MOTION was MOVED by Councillor Brown seconded Councillor Connor that Items 6 and 7 be considered concurrently.

## ITEM 6 – WOLLONGONG CITY COUNCIL – COMMUNITY WELLBEING AND SATISFACTION AND ITEM 7 – WOLLONGONG CITY COUNCIL – MEASURING OUR PERFORMANCE

A PROCEDURAL MOTION was MOVED by Councillor Crasnich seconded Councillor Martin that Councillor Brown be granted an additional three (3) minutes to address the meeting in relation to Items 6 and 7.

**20 COUNCIL'S RESOLUTION** – RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Connor that –

- 1 The reports for Item 6 Community Wellbeing and Satisfaction and Item 7 Measuring Our Performance, be received and the results of the surveys be considered as part of the 2015-16 Annual Plan.
- 2 A comprehensive response be prepared by staff identifying issues of concern.

*Variation* The variation moved by Councillor Takacs (the addition of part 2) was accepted by the mover and seconder.

## ITEM 8 – DRAFT QUARTERLY REVIEW – DECEMBER 2014

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 15).

### **COUNCIL'S RESOLUTION** –

- 1 The draft Quarterly Review December 2014 be adopted.
- 2 The Budget Review Statement as at 26 December 2014 be adopted and revised totals of income and expenditure be approved and voted.
- 3 The creation of a Property Investment Fund internally restricted asset be approved.

## **ITEM 9 – TENDER T14/31 – NORTH BEACH DIGGIES KIOSK REFURBISHMENT**

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 15).

### **COUNCIL'S RESOLUTION –**

- 1 In accordance with the Local Government (General) Regulation 2005, Clause 178 (1) (a), Council accept the tender of Edwards Constructions (NSW) Pty Ltd for North Beach Diggies Kiosk Refurbishment, in the sum of \$443,952.00, excluding GST.
- 2 Council delegate to the General Manager the authority to finalise and execute the contract and any other documentation required to give effect to this resolution.
- 3 Council grant authority for the use of the Common Seal of Council on the contract and any other documentation, should it be required to give effect to this resolution.

## **ITEM 10 – TENDER T14/21 – PROJECT MANAGEMENT SERVICES TO COUNCIL**

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 15).

### **COUNCIL'S RESOLUTION –**

- 1 In accordance with the Local Government (General) Regulation 2005, Clause 178 (1) (a), Council accept the tenders of Troutman Asset Integrity Pty Ltd, Jerez Enterprises Pty Ltd, NSW Public Works and Civil Contracting and Hire NSW for Project Management Services to Council.
- 2 Council delegate to the General Manager the authority to finalise and execute the contract and any other documentation required to give effect to this resolution.
- 3 Council grant authority for the use of the Common Seal of Council on the contract and any other documentation, should it be required to give effect to this resolution.

## DEPARTURE OF COUNCILLOR

Due to a prior Disclosure of Interest, Councillor Petty departed the meeting and was not present during debate and voting on Item 11.

## ITEM 11 – TENDER T14/32 – PROVISION OF TRAFFIC SIGNALS AT INTERSECTION OF KENNY AND BURELLI STREETS, WOLLONGONG

**21 COUNCIL'S RESOLUTION** – RESOLVED UNANIMOUSLY on the motion of Councillor Blicavs seconded Councillor Crasnich that –

- 1 In accordance with the Local Government (General) Regulation 2005, Clause 178 (1) (a), Council accept the tender of Corrigan Electrics Pty Ltd for Provision of Traffic Signals at the intersection of Kenny and Burelli Streets, Wollongong in the sum of \$146,050, excluding GST.
- 2 Council delegate to the General Manager the authority to finalise and execute the contract and any other documentation required to give effect to this resolution.
- 3 Council grant authority for the use of the Common Seal of Council on the contract and any other documentation, should it be required to give effect to this resolution.

## ITEM 12 – PROPOSED DEDICATION OF LANE AT AUSTINMER AS PUBLIC ROAD

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 15).

**COUNCIL'S RESOLUTION** – In accordance with Section 16 of the Roads Act 1993, Council approve the dedication as public road of the lane in Austinmer, as shown on the attachment to this report, by the placement of a notice in the NSW Government Gazette.



### **ITEM 13 – MINUTES OF CITY OF WOLLONGONG TRAFFIC COMMITTEE MEETING HELD 21 JANUARY 2015**

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 15).

**COUNCIL'S RESOLUTION** – In accordance with the powers delegated to Council, the minutes and recommendations of the City of Wollongong Traffic Committee Meeting held on 21 January 2015 in relation to Regulation of Traffic be adopted.

### **THE MEETING CONCLUDED AT 8.39 PM**

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Confirmed as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Wollongong held on 9 March 2015.

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Chairperson